

Message Text

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ACTION EA-09

INFO OCT-01 ISO-00 NSCE-00 CIAE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 OMB-01

SCA-01 TRSE-00 EB-07 AID-05 MMO-01 SIL-01 LAB-04 /076 W

----- 116907

R 130123Z JUL 76

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 7344

INFO SECDEF WASHDC

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CINCPAC

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CINCPACREPHIL

CG 13TH AF

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CINCPAC ALSO FOR POLAD

FROM USDEL 113

E.O. 11652: GDS

TAGS: MARR, RP

SUBJECT: PHILIPPINE BASE NEGOTIATIONS: DAILY SUMMARY NO. 16

1. SUMMARY. AFTER BRIEF PLENARY SESSION MORNING JULY 12, U.S. AND PHIL NEGOTIATING PANELS BROKE UP INTO WORKING GROUPS FOR FURTHER MEETINGS THROUGHOUT THE DAY. HOWEVER, WORKING GROUP ON FACILITIES RAN INTO IMMEDIATE SNAG WHEN U.S. TABLED WASHINGTON TEXT AND PHIL REPS REACTED IN EMOTIONALLY NEGATIVE FASHION. THIS GROUP SUSPENDED WORK FOR REMAINDER OF DAY, WHILE PHIL REPS CONSULTED WITH THEIR SUPERIORS. IN GROUP DISCUSSING OPERATIONS, SOME APPARENT PROGRESS WAS MADE, BUT ITS NATURE WILL REQUIRE EXAMINATION OF TEXTS WHICH PHIL REPS WILL TABLE JULY 13. IN LEGAL GROUP, DISCUSSION CENTERED ON ARTICLE CONCERNING APPLICATION

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OF PHILIPPINE LAW AND ON CRIMINAL JURISDICTION, WITH

PHILS PROMISING REDRAFTS JULY 14. LABOR GROUP CONTINUED DISCUSSIONS, AND USDEL SUGGESTIONS ARE CONTAINED SEPTELS. TAXATION GROUP MADE MINIMAL PROGRESS, WITH PHILS TABLING MODIFICATIONS TO THEIR PREVIOUS DRAFTS. END SUMMARY.

2. ROMUALDEZ OPENED 20 MINUTE MORNING PLENARY BY EXPRESSING HOPE THAT WORKING GROUPS WOULD FINISH BY FRIDAY (JULY 16) WORKING DRAFTS SHOWING WHAT THEY HAVE AGREED AND NOT AGREED. SULLIVAN EXPRESSED HOPE THAT AGREED WORKING DRAFTS COULD BE DEVELOPED BY THE 16TH. SULLIVAN ANNOUNCED THAT ADDITIONAL USAID FUNDING HAS BEEN OBTAINED TO ASSIST LOCAL WATER PROGRAMS AND THE USAID DIRECTOR ZIMMERLY WILL BE IN TOUCH WITH LOCAL GOVERNMENT SECRETARY RONO ABOUT FUNDING A WATER PROJECT AT OLONGAPO. ROMUALDEZ SAID THAT OLONGAPO CITY AUTHORITIES ARE NOW IN THE PROCESS OF BRINGING THE OLONGPO WATER SYSTEM UNDER CENTRAL GOVERNMENT SO THAT SUCH FUNDING COULD BE OBTAINED. AMBASSADOR SULLIVAN DELIVERED COPIES OF DRAFT DIPLOMATIC NOTES ON THE VARIOUS NON-MILITARY ISSUES RELATED TO THE NEGOTIATIONS: THE REGIONAL RELAY FACILITY; VOICE OF AMERICA; THE AMERICAN MILITARY CEMETERY AND MEMORIAL; AND THE FORT BONIFACIO DIPLOMATIC PROPERTY. ROMUALDEZ SAID THAT THESE MATTERS DO NOT FALL WITHIN THE JURISDICTION OF THE PHILIPPINE PANEL BUT PROMISED TO FORWARD THEM PROMPTLY TO THE DEPARTMENT OF FOREIGN AFFAIRS (DFA) FOR APPROPRIATE ACTION. HE SAID THAT THE PANEL WOULD ALSO SEND ALONG TO DFA COMMENT ON THE REGIONAL RELAY FACILITY SINCE IT FALLS WITHIN THE CLARK RESERVATION. SULLIVAN POINTED OUT THAT DFA PREVIOUSLY ADVISED THAT THE DIPLOMATIC PROPERTY ISSUE SHOULD BE TAKEN UP IN THE BASES NEGOTIATIONS. SULLIVAN STRESSED THAT WE WOULD EXPECT TO SIGN THE DIPLOMATIC NOTES ON THESE SUBJECTS SIMULTANEOUSLY WITH THE SIGNING OF THE AGREEMENT. ROMUALDEZ ANNOUNCED THAT CARMELO NORIEL, DEPARTMENT OF LABOR, WOULD SUBSTITUTE FOR INCIONG BEGINNING JULY 13.

3. CHARMEN'S GROUP MET ONLY PERFUNCTORILY. ROMUALDEZ SAID HE WAS "WORKING ON" REDRAFTS OF PHIL ARTICLES XIX AND XX, AND WOULD SOON HAVE REACTION TO U.S. DRAFT ON REMOVAL OF PROPERTY. SULLIVAN USED OCCASION TO ASK CONFIDENTIAL

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WHAT WAS EXPECTED TO TRANSPIRE IN PHIL TALKS WITH VIETNAMESE ON SUBJECT U.S. BASES. ROMUALDEZ SAID HE THOUGHT ISSUE WOULD BE SATISFACTORILY HANDLED, BUT THAT COP MIGHT PROPOSE "IN FACILITIES WORKING GROUP" THAT WE STRESS "DEFENSIVE" NATURE OF BASES. HE ALSO REITERATED PHIL "REQUIREMENT" TO HAVE SOME LANGUAGE IN AGREEMENT WHICH WOULD DEMONSTRATE THAT PHILS HAVE SIGNIFICANT SAY IN USE WHICH U.S. WILL MAKE OF THEIR TERRITORY

IN COMBAT SITUATIONS.

4. OPERATION OF BASES: AFTER POINTING OUT UNACCEPTABLE FEATURES OF LANGUAGE TABLED BY PHILS 9 JULY ON ARTICLES III, IV AND V, SOME PROGRESS MAY HAVE BEEN MADE TO GET SAME BACK ON TRACK. U.S. ARTICLE IX AND ANNEXES C AND D TO PHIL ARTICLE VI WERE DISCUSSED WITH LITTLE PROGRESS, IF ANY.

5. FACILITIES: WORKING GROUP COMPLETED ITS REVIEW OF ALL ITEMS ASSIGNED TO IT WITH PRODUCTIVE SESSION ON ENVIRONMENTAL MEASURES PRIOR TO PRESENTATION OF U.S. DRAFT ARTICLES ON DEFINITIONS, GRANT AND USE OF FACILITIES. AS REPORTED SEPTELS, PHIL REACTED TO U.S. PROPOSALS HIGHLY NEGATIVE MANNER POINTING OUT INCONSISTENCIES PROPOSED IN FACILITIES DEFINITION, STRONGLY OBJECTING TO U.S. UNWILLINGNESS TO STATE PURPOSES OF FACILITIES AND INITIALLY PROPOSING SUSPENSION OF NEGOTIATIONS. U.S. WORKING GROUP DID NOT PRESENT PROPOSED ARTICLE III SINCE IT LACKED RATIONALE FOR HIGHLY LIMITED POSITION CONTAINED IN ITS INSTRUCTIONS. WORKING GROUP RECESSED AFTER MORNING SESSION SO THAT PHILS CAN REVIEW THEIR POSITION IN LIGHT OF U.S. PROPOSALS.

6. LABOR: MR. WILLIAM A. PANKONIN, LABOR ADVISOR FROM CINCPAC, JOINED THE LABOR WORKING GROUP JULY 12. DISCUSSIONS IN THE LABOR GROUP CONTINUE TO BE PURELY EXPLORATORY, WITH BOTH SIDES FULLY AWARE THAT NOTHING SAID IS AT ALL BINDING. DURING THE MORNING SESSION, TWO REPRESENTATIVES OF THE WAGE AND POSITION CLASSIFICATION OFFICE (WAPCO), BUDGET COMMISSION, OFFICE OF THE PRESIDENT, BRIEFED THE GROUP ON THE POSITION CLASSIFICATION SYSTEM APPLIED IN THE PHIL GOVERNMENT'S CIVIL SERVICE, AND THE CONFIDENTIAL

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TECHNIQUES APPLIED BY THEM IN CONDUCTING TECHNICAL SURVEYS IN WHICH GOP CIVILIAN EMPLOYEE SALARIES ARE SET. THE BRIEFING HAD BEEN ARRANGED AT THE REQUEST OF THE U.S.

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INFO OCT-01 ISO-00 NSCE-00 CIAE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 OMB-01

SCA-01 TRSE-00 EB-07 AID-05 MMO-01 SIL-01 LAB-04 /076 W
----- 119589

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC 7345

INFO SECDEF WASHDC

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CINCPAC ALSO FOR POLAD

FROM USDEL 113

SIDE IN CONNECTION WITH DISCUSSIONS OF PARA 4, ARTICLE XI, OF PHIL DRAFT REGARDING DEMAND FOR COLLECTIVE BARGAINING FOR WAGES AND FRINGES. U.S. INTENT WAS TO EXPLORE AN IDEA SUGGESTED BY INCIONG THAT WAPCO SURVEYS COULD BE USED TO DETERMINE RATES FOR PHIL EMPLOYEES OF U.S. FORCES. INCIONG ORIGINALLY IMPLIED THAT THIS APPROACH MIGHT FIND ACCEPTANCE WITH THEM IN LIEU OF WAGE BARGAINING, ALTHOUGH AS THE IDEA WAS EXPLORED BY U.S. SIDE, HE APPEARED TO BECOME LESS ENAMORED OF IT. EXPECT THE IDEA OF USING WAPCO TO RESURFACE NEXT FEW DAYS. REMAINDER OF THE DAY SPEND ON THE ARBITRATION ASPECTS OF PARA 3, ARTICLE XI, PHIL DRAFT. MR. PANKONIN REVIEWED FOR THE PHIL PANEL THE USDEL POSITION ON THESE TWO POINTS: THAT U.S. SIDE CAN NEVER AGREE TO BINDING ARBITRATION OF DISPUTES; AND THAT LABOR PROBLEMS CANNOT BE PERMITTED

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TO INTERFERE WITH THE ORDERLY OPERATION OF THE BASES. DURING THESE DISCUSSIONS, THE WORKING GROUP EXPLORED IN SOME DEPTH THE CONCEPT THAT DISPUTES OVER DISCIPLINARY CASES COULD BE HANDLED AS FOLLOWS: IF DISPUTED, THE ADVERSE ACTION TO BE SUBMITTED FOR REVIEW BY PHIL BASE COMMANDER AND U.S. FACILITIES COMMANDER, THEIR DECISION

TO BE IMPOSED IF THEY ARE IN AGREEMENT. IN CASE OF DISAGREEMENT, THE CASE TO BE SUBMITTED TO THE BLA'S JOINT COMMITTEE, WHERE COMPLIANCE WITH AN AGREED-UPON DECISION WOULD BE MANDATORY. IF AGREEMENT STILL NOT REACHED, THE MATTER COULD GO TO GOVERNMENT-TO-GOVERNMENT NEGOTIATION AT COUNCIL OF MINISTERS LEVEL. THIS APPROACH-- OF SETTING UP BILATERAL PROCEDURES AND PUTTING "TEETH" INTO JOINTLY AGREED UPON DECISIONS, MAY HAVE BROADER APPLICATION THAN DISCIPLINARY CASES ONLY, AS IT RETAINS U.S. "VETO" RIGHTS WHILE SATISFYING PHIL DEMAND FOR MEANINGFUL ROLE REFLECTING THEIR DEMAND FOR EQUAL SOVEREIGNTY. EXPLORATORY GROUP DISCUSSIONS WILL RESUME TOMORROW.

7. LEGAL SUBGROUP MET AND DISCUSSED FCJ AND APPLICATION OF PHIL LAWS. US FCJ PROPOSAL WAS TABLED AND DISCUSSED. MENDOZA NOTED IT DID NOT CONTEMPLATE ROLE FOR GOP COURT IN OFFICIAL DUTY DETERMINATION. USDEL RESPONDED THAT U.S. REMAINS OPPOSED TO THAT, BUT HAD ATTEMPTED TO MEET OTHER GOP CONCERN IN THE REDRAFTING. DISCUSSION OF THIS PROPOSAL IDENTIFIED PARTICULAR GOP CONCERN THAT DETERMINATION OF OFFICIAL DUTY SEEMED TO HAVE THE EFFECT IN U.S. LAW OF PRE- JUDGING THE VALIDITY OF THE DEFENSE OF OFFICIAL DUTY WHICH MIGHT BE ASSERTED IN COURSE OF A TRIAL IN EITHER U.S. OR PHIL COURT. U.S. SIDE REITERATED POSITION THAT ISSUANCE OF DUTY CERTIFICATE DOES NOT PREJUDGE QUESTION OF GUILT OR INNOCENCE. MENDOZA STATED HE WOULD ATTEMPT A REDRAFT ON THIS POINT BY WEDNESDAY. DISCUSSION OF RESPECT FOR PHIL LAW WAS PURSUED AT LENGTH AND IS SUBJECT OF SEPTAL. IMMIGRATION OF CLAIMS WILL BE TAKEN UP TOMORROW.

8. TAXATION: PHIL REP TABLED A DRAFT PARAGRAPH ON U.S. CONTRACTORS WHICH WOULD GRANT INCOME TAX EXEMPTION ONLY TO U.S. CONTRACTORS "UNDER LONG-TERM CONTRACT FOR THE MAINTENANCE OF MILITARY AIRCRAFT, VESSELS AND OTHER MILITARY CONFIDENTIAL

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EQUIPMENT FOR WHICH SAID CONTRACTS WERE AGREED UPON WHEN THE EQUIPMENT WAS ORIGINALLY PURCHASED." U.S. REPS NOTED THIS EXEMPTION WAS NOT BROAD ENOUGH TO BE ACCEPTABLE. PHIL REP INDICATED HE HAD NO NEW INSTRUCTIONS YET ON OTHER ISSUES CURRENTLY OBSTRUCTING WORKING GROUP PROGRESS ON TAXATION AND SALES AND SERVICES; GRANT OF EXEMPTIONS TO BASE EXCHANGES, COMMISSARIES, ETC.; AND SCOPE OF CUSTOMS EXEMPTIONS FOR PERSONAL EFFECTS.

SULLIVAN

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MILITARY BASE AGREEMENTS, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 13 JUL 1976
Decapton Date: 01 JAN 1960
Decapton Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: BoyleJA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MANILA10141
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760269-0107
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760765/aaaaceqx.tel
Line Count: 273
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: BoyleJA
Review Comment: n/a
Review Content Flags:
Review Date: 03 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <03 JUN 2004 by CunninFX>; APPROVED <27 SEP 2004 by BoyleJA>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PHILIPPINE BASE NEGOTIATIONS: DAILY SUMMARY NO. 16
TAGS: MARR, RP, US
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006